

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**James Underwood**

Petitioner-Appellant,

v.

**Webster County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 09-94-0017**

**Parcel No. 002+0718356006**

On September 18, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. A hearing was requested by the Appellant, James Underwood. Mr. Underwood participated by phone and was represented by Attorney Mark Crimmins of Bennett, Crimmins and Smith, Fort Dodge, Iowa. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Webster County Board of Review designated Assistant County Attorney Cori Kuhn Coleman as legal representation. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Mr. Underwood protested to the Webster County Board of Review regarding his property located at 347 4th Street NW, Fort Dodge, Iowa. Mr. Underwood asserted that 1) the property was not equitably assessed under Iowa Code section 441.37(1)(a); 2) the property was assessed for more than authorized by law under section 441.37(1)(b); and 3) that there has been a downward change in value under section 441.37(1) and 441.35(3).

Mr. Underwood asserted to the Board of Review that the subject property was purchased for market value in 2005 for \$20,000, and he does not believe that values have increased since then. As

such, he considered this previous sales price to be the fair market value. The Board of Review acted unanimously to reduce the assessment from \$40,570 to \$31,990 with the following allocations: \$4630 in land value and \$27,360 in improvement value.

Mr. Underwood the appealed to this Board. He reasserted all previous grounds, and seeks relief of \$11,990 for a total assessment of \$20,000. Mr. Underwood plainly states that the subject property was appraised for finance purposes in 2005 for \$20,000; that this was the purchase price; and that there have been no improvements to the property since its purchase.

The assessment under protest is on one parcel, number 002+0718356006, however the property actually consists of two parcels. Mr. Underwood's intent is to have the total assessed value for both parcels be \$20,000.

The primary parcel (ending in 006) has a property address of 347 4th Street NW, Fort Dodge. This parcel has a site size of 50 feet by 131 feet (6550 square feet total) and is improved with a one-story frame property built in 1951; containing 667 square-feet of living area and a full unfinished basement.

The second parcel number 002+0178356005 is a vacant, adjoining lot measuring 50 feet x 152 feet (7600 square feet total) and assessed for \$2420.

James Kesterson, Chair of the Board of Review, testified on behalf of the Board at hearing. Mr. Kesterson stated that it was the Board's intent that the assessment of \$31,990 reflect the entire property, both parcels.

Mr. Underwood provided five properties he considered comparable to his, all of which are assessed less than the subject property, to support his argument of inequity. The five properties submitted range in gross living area (GLA) from 635 square feet to 1036 square feet; and range in total assessed value from \$15,830 to \$24,310.

Mr. Kesterson explained, in his opinion, why the five comparables submitted by Underwood to support his equity claim were not reasonable. Mr. Kesterson indicated that some of the properties were simply larger than the subject and he did not consider them to be comparable; while he believed others to be forced sales or investment properties purchased with the intent of a quick "flip" (renovation and resale).

Short of providing the property addresses, GLA, and total assessed value of the five properties, Mr. Underwood did not present any other evidence that demonstrates the subject is inequitably assessed. As such, this Board finds insufficient evidence has been presented to support the claim of inequitable assessment.

Mr. Underwood also provided an appraisal, completed for mortgage financing purposes in 2005, as evidence to the current market value of the property and to support his claim that the property is over-assessed. The appraisal references two parcel numbers and two legal descriptions with a combined site size of 14,150 square feet. Only one parcel (002+0718356006) is the subject of this appeal, however the Board of Review has acknowledged, through testimony, that the total assessed value of \$31,990 was intended to reflect both parcels. The property card indicates the improvements are in below average condition, and this was confirmed at the hearing by Mr. Underwood. The appraisal reports the subject improvements to be in average condition, although it states that the dwelling "is in need of some general repairs and maintenance."

While we find the appraisal submitted to be credible, it has an effective date of value of August 2005, whereas the value of this appeal is based upon a January 1, 2009, assessment date. There has been no evidence presented by Mr. Underwood that this is the correct value of the subject property as of the assessment date. However, testimony from the Board of Review's witness, Mr. Kesterson, supports Underwood's over-assessed claim because the Board of Review essentially assessed a portion of the property twice.



Mr. Kesterson testified that the Board of Review reduced the assessment, as there was a belief that the original assessment was excessive. When questioned about the 2005 appraisal being based upon two parcels and a larger site, Kesterson indicated that he believed the intent of the Board of Review was that the current total assessment of \$31,990 reflected both parcels.

At the request of this Board, the property card for the second parcel was submitted. That card indicates a total assessment, to the land only, of \$2420. Given the intent of the Board of Review, we find that the total value for the parcel that is the subject of this appeal (002+0718356006) should be corrected by removing the \$2420 land value that was inadvertently included in the total valuation. The corrected assessment shall be reflected as follows: \$2210 in land value and \$27,360 in improvement value for a total assessment of \$29,570.

Although Mr. Underwood indicated he was also making a claim on the ground of downward change in value in his filings, he failed to present any arguments relating to this assertion. The Appeal Board finds no evidence has been submitted to prove a downward change in value.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

*Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). While Mr. Underwood submitted several equity comparables, they are insufficient to demonstrate that the property has been inequitably assessed. The main problem with the properties selected by the appellant, is that this Board cannot sufficiently determine whether they are comparable.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While Mr. Underwood submitted a credible appraisal for consideration, the effective date of that value was August of 2005. Because of this date, the appraisal is not considered sufficient evidence reflecting the market value as of January 1, 2009. Even though the appraisal was not sufficient to prove the property was over-assessed, statements made by the Board of Review's witness

at hearing, and later verified by the property record card, showed that the subject property was assessed for more than authorized by law. Essentially, the land value of the subject property was twice that what it should be. For this reason, we find the property was over-assessed and that evidence shows what the correct assessment should be.

Finally, the last numbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. *See Security Mut. Ins. Ass'n of Iowa v. Bd. of Review of City of Fort Dodge*, 467 N.W.2d 301, 304 (Iowa Ct. App. 1991). While Mr. Underwood alleged this ground in his filings submitted to this Board, he submitted no evidence for us to consider regarding downward trend.



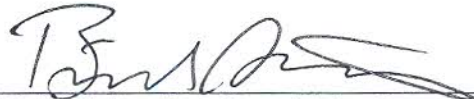
THE APPEAL BOARD ORDERS that James Underwood's property assessment be modified. Parcel number 002+0718356006, located at 347 4th Street, NW, Fort Dodge, Iowa, is modified to a total value of \$29,570; representing \$2210 in land value and \$27,360 to the improvements as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Webster County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

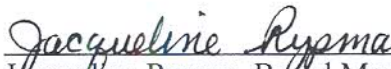
Dated this 30 day of November, 2009



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-30</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	

